

**CHIROPRACTIC EXAMINING BOARD
MADISON, WI
MINUTES
DECEMBER 19, 2002**

PRESENT: Susan Feith, Char Glocke, James Greenwald, Brouck Sleight, James Rosemeyer, Dale Strama

STAFF PRESENT: Kimberly Nania, John Schweitzer, Grace Schwingel, DOE staff

GUEST: James Weber, Board appointee
Dyana Tillinger, WCA; Ron Hermes, WPTA
Liz Schumacher, Wisconsin Medical Society

CALL TO ORDER

Dale Strama, Chair, called the meeting to order at 8:06 a.m. A quorum of 6 board members was present.

AGENDA

Amendments to Agenda:

1) 12/19/02 letter to Elaine Johnston re preceptor program (under Legal Counsel Correspondence); 2) 12/18/02 e-mail to John Schweitzer re: room rental for diagnostic services; 3) 12/18/02 e-mail to John Schweitzer re: utilizing portable hyperbaric chambers in chiropractic clinics; 4) Notes from Phone conversation with Russ Leonard, WCA on 12/13/02; 5) Proposed Stipulation for Michael S. Rusak, D.C.; 6) DOE summary of cases; 7) Letter to Board dated 12/17/02 from Abdulluh Aboulhassani, D.C. re: CE requirements (after "Digest Review"; 8) Preceptor Approval; 9) 12/17/02 Inquiry re: CE requirements re: CPR for out of state licensee; 10) Draft of letter to colleges re: pending statutory changes (Legal Correspondence); 11) Change heading on agenda to "CE Philosophy Credits" (not Philosophy of CE); 12) Additional exam issue.

MOTION: James Rosemeyer moved, seconded by Susan Feith, to approve the agenda as amended. Motion carried unanimously.

MINUTES OF NOVEMBER 21, 2002

Amendments to Minutes of 11/21/02: Susan Feith should be listed on the Screening Panel, along with Dale Strama (not John Strama) and James Rosemeyer. It was noted that Dale Strama will stay on the Screening Panel until his term is up. James Greenwald noted that his address needed to be updated on the Regulatory Digest.

MOTION: Brouck Sleight moved, seconded by James Greenwald, to approve the minutes of 11/21/02 as amended. Motion carried unanimously.

ADMINISTRATIVE REPORT

GREG HORSTMAN

Deputy Secretary, Greg Horstman, reported that the members of the administrative team were working with the Governor-Elect's Transition Team to provide necessary information on the topics and issues the Department is working on to ensure a smooth transition as a new Governor takes office. It was reported that all senior administrators received letters from Governor-Elect Doyle indicating that their appointments end on January 5, 2003, but that some individuals may be asked to continue in their position on an interim or permanent basis. Governor McCallum has requested that the new administration confirm the individuals who have been appointed to the boards for purposes of continuity and quorum issues.

ROSTER

Board members approved the Board's roster as presented on the Roster dated 12/16/02.

MEETING DATES

The Board's next meeting is scheduled for Thursday, January 16, 2003.

PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER MAILING OF AGENDA

Jim Polewski, DOE attorney, presented the proposed stipulation for Michael Rusak, D.C. Brouck Sleight is the case advisor. An initial misunderstanding about the Board's intent regarding the continuing education credit requirements was noted and corrected. The Board's intent was to require Dr. Rusak to complete only the additional 12 hours of continuing education within the next 6 months. The Board will deliberate on this issue in closed session.

REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES AND PRESS RELEASES

John Schweitzer briefly reviewed pending cases before the Board.

PRECEPTOR APPROVAL FOR REQUESTS RECEIVED AFTER THE PRINTING OF THE AGENDA

The Board reviewed the requests presented for approval as preceptors.

MOTION: Brouck Sleight moved, seconded by James Rosemeyer, to approve Karla Kilian, David Hackbarth, and Michael Utschig as preceptors. Motion carried unanimously.

CORRESPONDENCE: WCA RE: ADVERTISING

The Board considered the letter from the WCA regarding concerns it had about advertising practices in Wisconsin. It was noted that the WCA had misunderstood and misquoted the rule dealing with advertising and the ability of the chiropractors who hold a valid acupuncture license to practice both chiropractic and acupuncture. The Board had concerns about the WCA taking on the responsibilities of the Board by interpreting the Board's code and dispersing incorrect information to its members.

There was a discussion about the criteria for advertising as a specialist. The Board discussed the distinction between a Dr. choosing to focus his or her practice in a particular area of chiropractic and meeting the specific criteria to be considered a specialist in a particular area of chiropractic care. Legal Counsel, John Schweitzer, will contact the WCA to clarify some of these issues, indicating that the Board agrees there are advertising concerns that need to be addressed and felt that, overall, the WCA performed a valuable service to the profession on this issue of advertising.

The Board also discussed under what conditions a chiropractor may also practice acupuncture. The Board indicated that if a chiropractor also holds a valid Wisconsin Acupuncture license, he or she may practice chiropractic care and acupuncture from their chiropractic office as long as they indicate they are performing the acupuncture under their acupuncture license and not their chiropractic license.

Following is the portion of the WCA's interpretation of Board rules that were published in the December 2002 WCA newsletter which the Board indicated is **not** an accurate reflection of the rules or the Board's position regarding chiropractors who may also be entitled to practice acupuncture.

Chiropractors in Wisconsin have a limited scope of practice. The scope of practice does not include acupuncture, even if the chiropractor received acupuncture training as part of their undergraduate or postgraduate training. Because the chiropractic scope of practice does not include acupuncture, a chiropractor may not advertise that they offer acupuncture services, even if they are a licensed acupuncturist. WCA Advertising Services. Wisconsin's advertising regulations covers all advertising regardless if it is run in newspapers, coupons, newspaper inserts, TV, radio, the Internet or the Yellow Pages. The WCA strongly advises its members to closely review all of their advertising to insure that it complies with Wisconsin law. As a service to its members, the WCA will review advertising for conformance with the law. To receive this member benefit, please fax the ad to the WCA or mail a tape of TV or radio ads to the WCA.

Legal Counsel, John Schweitzer, will write an article for the next Regulatory Digest to clarify what the Board's intent is for chiropractors in Wisconsin with regard to advertising as a specialist or the provision of acupuncture services.

CORRESPONDENCE RE: INTERPRETATION OF MANIPULATION UNDER ANESTHESIA, AMERY REGIONAL MEDICAL CENTER

The Board reviewed the letter from Amery Regional Medical Center concerning manipulation under anesthesia.

CORRESPONDENCE RE: COLLEGE ON FORENSIC SCIENCES: HOPKINS CLINIC FOR PHYSICAL MEDICINE

The Board reviewed and authorized Legal Counsel, John Schweitzer, to respond to the letter from Hopkins Clinic for Physical Medicine.

CORRESPONDENCE RE: PRACTICE QUESTION

Brouck Sleight presented the issue of electrodiagnostic evaluation procedures to the Board to determine if this would fall within the scope of practice of chiropractic care. The Board would like to get more information on this procedure and to verify its value to patients. Brouck Sleight will investigate this matter further and report back to the Board.

The Board also considered an e-mail dated 12/18/02 regarding whether the use of hyperbaric chambers would be within the scope of practice of chiropractic care. The Board would like to get more information on this issue before making a response. If a chiropractor wants to experiment with this procedure, they need to get FDA approval.

Legal Counsel, John Schweitzer, will look into the issue of whether a procedure is considered to be in the scope of practice for chiropractic if it is not specifically prohibited. The matter of electrodiagnostic care and the use of hyperbaric chambers will be discussed further at the Board's next meeting in January.

CORRESPONDENCE RE: CE – LIFE UNIVERSITY

The Board reviewed the issue of Council on Chiropractic Education (CCE) accreditation. Legal Counsel, John Schweitzer, will respond to the 12/4/02 letter from LIFE University indicating that for a CE course to be approved in Wisconsin, it must have CCE approval. John Schweitzer will prepare an article for the Regulatory Digest addressing this issue.

DISCUSSION: NATIONAL EXAM – PART IV

Members of the Board, Brouck Sleight, Susan Feith, and James Rosemeyer, along with James Weber, reported on their attendance at the National Exam-Part IV. There was a discussion regarding the differences between the Wisconsin exam and the National Exam-Part IV. Dale Strama turned the position of Chair over to Brouck Sleight during discussion of this issue.

MOTION: Brouck Sleight moved, to not accept the National Exam-Part IV for licensure in Wisconsin and to retain the current exam regimen, with the understanding that the Board will revisit this question in a year. Motion died for lack of a second.

MOTION: Susan Feith moved, seconded by Char Glocke, to accept the National Exam-Part IV, as the standard for licensure in Wisconsin. Motion carried. After some discussion, a role call vote was requested. Susan Feith-yes; Char Glocke-yes; James Greenwald-no; James Rosemeyer-yes; Brouck Sleight-yes; Dale Strama-abstained. Motion carried.

MOTION: Brouck Sleight moved, seconded by James Greenwald, to move for reconsideration of the previous motion. Motion carried by role call vote: James Greenwald-yes; James Rosemeyer-yes; Brouck Sleight-yes; Susan Feith-no; Char Glocke-no; Dale Strama-abstained.

Due to the unusual nature of the above actions, there was a brief discussion of Roberts Rules of Order. It was determined, that while Boards often use Roberts Rules of Order as a guideline, it is not bound to follow Roberts Rules of Order. Dale Strama explained why he was abstaining on the vote on this issue

It was noted that while there was differences of opinion on how to achieve it, the board members were united in the desire to have competent people practicing chiropractic care in Wisconsin. After reconsideration of the issue of whether or not to adopt the National Exam-Part IV as the standard for licensure in Wisconsin, the Board made its final vote on this matter.

MOTION: Susan Feith moved, seconded by Char Glocke, to accept the National Exam-Part IV, as the standard for licensure in Wisconsin. Candidates will continue to be required to pass Wisconsin's written jurisprudence exam for Chiropractors for licensure in Wisconsin. Motion carried by role call vote: Susan Feith-yes; Char Glocke-yes; James Greenwald-no; James Rosemeyer-yes; Brouck Sleight-no; Dale Strama-abstained.

Gail Pizarro clarified the impact of this vote: National Exam-Part IV, is effective immediately, as of December 19, 2002, as the standard for licensure in Wisconsin. Everyone that has passed Part IV of the National Exam and the written jurisprudence exam qualifies for licensure in Wisconsin whether or not they have passed the Wisconsin Practical Exam. If someone who took the Wisconsin Practical Exam on December 5, 2002, still has to pass one section of the exam and has not passed Part IV of the National exam, the Exam Office will notify these specific individuals that this will be the last opportunity for them to retake the particular section of the Wisconsin Practical Exam they still need to pass. It was noted that most states currently accept the National Exam-Part IV as their standard for licensure.

Dale Strama resumed acting as Chair of the meeting at this point, after the discussion involving the National Exam-Part IV was concluded, at 10:35 a.m.

The Board requested that for its next agenda, it would like to consider fees related to licensure and the requirements for DC's to do utilization reviews.

REPORT RE: WCA – “PARA PHYSIOLOGICAL SPACE” (DR. STRAMA AND DR. ROSEMEYER)

Dale Strama reported on his visit with the WCA. Some concerns of the WCA include scope of practice issues and the need for a fuller definition of chiropractic.

MOTION: James Greenwald moved, seconded by Brouck Sleight, to authorize Legal Counsel, John Schweitzer, to request from the schools a definition of the practice of chiropractic and a definition of adjustment. Motion carried unanimously.

DISCUSSION RE: CE PHILOSOPHY CREDITS

Noted

DISCUSSION AND REVIEW: POSSIBLE REVISIONS OF THE CCE STANDARDS

Noted

DIGEST REVIEW

The Board reviewed the draft of the Regulatory Digest. James Greenwald's Madison address should be used. Gail Pizarro will write an article regarding the National Exam-Part IV. Disciplinary actions taken by the Board were noted.

CORRESPONDENCE AND PHONE INQUIRIES BY LEGAL COUNSEL

John presented drafts of letter he wrote as authorized by the Board for their review.

- 1) 12/19/02 letter to Elaine Johnston
- 2) Notes from phone conversation with Russ Leonard on 12/13/02

MOTION: Brouck Sleight moved, seconded by Char Glocke, to authorize Legal Counsel, John Schweitzer, to send a letter to WCA asking them to keep the Board informed of the WCA's progress with regard to proposed statutory changes. The Board offered its cooperation and expertise. Motion carried unanimously.

- 3) E-mail dated 12/18/02 re: room rental for diagnostic services.
- 4) Abdulluh Aboulhassan, DC

MOTION: Dale Strama moved, seconded by James Rosemeyer, to allow Abdulluh Aboulhassani, D.C. an extension to January 31, 2003, to fulfill his CE requirements. Motion carried unanimously.

- 5) SEIM Chiropractic Center 12/17/02 letter regarding the CPR requirement for renewal.
- 6) Inquiries regarding laser techniques. The Board would like to be better informed on this matter.

CLOSED SESSION

MOTION: Brouck Sleight moved, seconded by James Rosemeyer, to adjourn to closed session pursuant to Wisconsin State statutes 19.85(1)(a)(b)(f) and (g) to deliberate on any proposed stipulations, the results of December 5, 2002 Exam, other exam business, Final Decision and Order for Harold Dykema, D.C. and Clifford Price, D.C., any proposed administrative warnings or monitoring issues, DOE case status report and to consult with legal counsel. Motion carried by roll call vote: Susan Feith-yes, Char Glocke-yes, James Greenwald-yes, Brouck Sleight-yes, James Rosemeyer-yes, Dale Strama-yes.

Open session recessed at 12:05 p.m.

RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

The Board reconvened into open session by consensus.

VOTE ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

DELIBERATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER MAILING OF AGENDA

None

REVIEW AND DISCUSSION OF RESULTS OF DECEMBER 5, 2002, EXAM (GAIL PIZARRO)

Gail Pizarro reported to the Board on the results of the December 5, 2002 exam and was authorized by the Board to send the letter to anyone who failed a section of the exam and has not taken and passed the National Part IV Exam, informing them that they will have one opportunity to retake the section of the exam they failed.

OTHER EXAM BUSINESS

None

DELIBERATION OF DISCIPLINARY PROCEEDINGS, FINAL DECISION AND ORDER

HAROLD J. DYKEMA, DC

MOTION: James Greenwald moved, seconded by Susan Feith, to accept the proposed Final Decision and Order in the matter concerning Harold Dykema, D.C. James Rosemeyer voted no. Motion carried.

CLIFFORD J. PRICE, DC

MOTION: Char Glocke moved, seconded by James Greenwald, to accept the Final Decision and Order in the matter concerning Clifford J. Price, D.C. Motion carried unanimously.

MICHAEL RUSAK, D.C.

MOTION: James Rosemeyer moved, seconded by James Greenwald, to accept the revised Final Decision and Order in the matter pertaining to Michael Rusak, D.C. Char Glocke abstained. Motion carries.

DELIBERATION OF PROPOSED STIPULATIONS RECEIVED AFTER MAILING OF AGENDA

None

DELIBERATION OF PROPOSED ADMINISTRATIVE WARNINGS RECEIVED AFTER MAILING OF AGENDA

None

DELIBERATION ON MONITORING ISSUES THAT MAY BE RECEIVED AFTER MAILING OF AGENDA

None

DIVISION OF ENFORCEMENT – CASE STATUS REPORT – 11:00 A.M.

MOTION: Brouck Sleight moved, seconded by Susan Feith, to close case 02 CHI 063 for no violation. James Rosemeyer is the case advisor. Motion carried unanimously.

CONSULT WITH LEGAL COUNSEL

There were no additional items to discuss.

INFORMATION ITEMS

None

OTHER BOARD BUSINESS

None

ADJOURNMENT

MOTION: James Rosemeyer moved, seconded by James Greenwald, to adjourn the meeting at 12:50 p.m. Motion carried unanimously.

Next Meeting: Thursday, January 16, 2002